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EXAMINER	
NGUYEN, SON T	
ART UNIT	PAPER NUMBER
3643	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/581,924	MAZERIS, FERNANDO	
	Examiner	Art Unit	
	Son T. Nguyen	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *1/15/09*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) *25 and 26* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7/18/06,6/7/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of group 1-24, in the reply filed on 1/15/09 is acknowledged. The traversal is on the ground(s) that (1) it is respectfully submitted that all of the claims are directed to a single general inventive concept because the special technical features are found in both independent claims 1 and 25, and (2) it is respectfully submitted that the subject matter of all claims is sufficiently related that a thorough search for the subject matter of any one group would encompass a search for the subject matter of the remaining claims.

This is not found persuasive because (1) the claims are not directed to a single general inventive concept because the special technical features of group I are lacking in group II. For example, group I clearly calls for a control device for controlling the analyzer and a control device for controlling the feed device, both of which are missing in group II. Although group II calls for "measuring the amount of at least one constituent of solid feed to be fed to said animals in real time or near real time, repeatedly, and at least once a day by an analyzer device provided on the farm; and feeding said animals repetitively and at each instant depending on the last one of said repeatedly performed measurements by a feeding device", it does not necessary mean that group II includes the control devices as called for in group I because the steps can be done by a human without control devices. Unless it is specified in group II that the steps are to be done by control devices, then it would be the same as group I; however, this is not the case. Therefore, there is a lacking of special technical feature between group I and group II.

(2) it would be a serious burden on the examiner to search multiple invention, and a search for one group would not necessary encompass a search for the other group. For example, in addition to subclass searches, different text search queries would be require for the apparatus (group I) than the method (group II) because one would not generate a text search for control devices in the method because none is being claimed. Thus, the text search queries between groups I & II would be different.

The requirement is still deemed proper and is therefore made FINAL. Claims 25-26 have been withdrawn from consideration due to the claims belonging to a non-elected group.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2,3,5-7,10-13,15-17,19-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claims 2,3,6,7,10-13,15-17,20-24, it is unclear if other control devices for the analyzer device and the feeding device (different from that of claim 1) are being claimed or is it the same devices as claimed in claim 1 but just performing different functions. For example, claim 2 calls for "a control device is provided for controlling said analyzer device", which appeared to be the same device as claimed in claim 1, "a control device provided for controlling said analyzer device", OR is it an additional device? Note that the specification appears to be stating that it is the same device, i.e. the computer.

Another example, claim 6 calls for "a control device is provided for controlling said feeding device" which appeared to be the same device as claimed in claim 1, "a control device provided for controlling said feeding device", OR is it an additional device? Note that these are two examples, all other claims have similar unclear issues.

For claims 3,5,19,20, the phrases "preferably" and "particularly" render the claims indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

For claim 10, it appears that the control devices as claimed in claim 1 is the computer system as claimed in claim 10. However, claim 10 seems to indicate another control device because the claim language states "further comprising" instead of "said control device further comprising".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3,5,6,10,11,13,18,20,23,24 are rejected under 35 U.S.C. 102(b) as being anticipated by Brewster et al. (5878402).

For claim 1, Brewster et al. teach a feeding system for feeding animals on a farm, comprising: an analyzer device provided on the farm for measuring in real time or near real time the amount of at least one constituent of solid feed to be fed to said animals (col. 6,lines 20-28,col. 9,lines 31-45,col. 10, all lines,col. 12,all lines, the feedbunk

reader, the veterinary analysis and the nutrition analysis, all function as an analyzer to determine the amount of feed to be feed to the animals); a control device 17 provided for controlling said analyzer device to measure the amount of the constituent of the solid feed repeatedly and at least once a day (col. 11,lines 25-41,col. 13,lines 25-31,col. 14,lines 1-5); a feeding device 12 provided for feeding said animals; and a control device 18 provided for controlling said feeding device to feed said animals repeatedly and at each instant depending on the last one of said repeatedly performed measurements.

For claim 2, Brewster et al. teach wherein a control device is provided for controlling said analyzer device to measure the amount of said constituent of said solid feed immediately prior to the feeding of said animals (col. 11,lines 35-41).

For claim 3, Brewster et al. teach wherein a control device is provided for controlling said analyzer device to measure the amount of said constituent of said solid feed a plurality of times per day, and preferably at least three times per day (col. 13,lines 25-31,col. 14,lines 1-5,40-43).

For claim 5, Brewster et al. teach wherein the amount of said constituent includes any of protein content, dry content, and fiber content, particularly neutral detergent fiber (NDF) content (col. 14,lines 30-35, dry content).

For claim 6, Brewster et al. teach wherein a control device is provided for controlling said analyzer device to measure the amounts of a plurality of constituents of said solid feed (col. 13,lines 6-20,col. 14,lines 25-40), and a control device 18 is provided for controlling said feeding device to feed said animals depending on the

measurements of the amounts of the constituents of said solid feed (col. 7,lines 63-67, col. 8,all lines, col. 9, all lines).

For claim 10, Brewster et al. teach a computer-based processing and control device provided for the management of said animals including controlling of the feeding of said animals, wherein said processing and control device comprises a database including updated information regarding feed consumption by said animals; is connected to receive said respective measured amounts of said constituent of said solid feed; is provided to calculate an amount of solid feed to be fed to said animals based on the performed measurements and said updated information comprised in, said database; and is connected to indicate to said feeding device said calculated amount of solid feed to be fed to said animals. See col. 6,lines 61-67,col. 7, all lines, col. 8,lines 56-67,col. 9,lines 1-16,47-67,col. 10, all lines, col. 11,lines 1-23).

For claim 11, Brewster et al. teach wherein a control device is provided for controlling said feeding device to feed said animals with mixed solid feed having a balanced composition depending on the performed measurements (col. 11,lines 25-40,col. 12,lines 18-67,col. 13,lines 5-67,col. 14,lines 1-50).

For claim 13, Brewster et al. wherein said animals are grouped in different groups, and wherein a control device is provided for controlling said feed device to feed different groups of animals with total mixed rations {TMR) of solid feed independently and depending on the performed measurements (col. 12,lines 9-67).

For claim 18, Brewster et al. teach wherein said feeding device is a vehicle filled with said solid feed, and said on-farm analyzer device is provided at said vehicle for

measuring the amount of said constituent of said solid feed (col. 5,lines 55-62,col. 7, lines 34-67,col. 8,lines 1-67,col. 9,lines 1-30).

For claim 20, Brewster et al. teach a device, preferably a weighing machine 52,75 or an optical device with image processing capabilities, provided for establishing in connection with said feeding, the actual feed consumption by said animals, wherein a control device is provided for controlling said feeding device to feed said animals depending on the established actual feed consumption by said animals.

For claim 23, Brewster et al. teach wherein a control device is provided for controlling said analyzer device to measure the amount of the constituent of the solid feed repeatedly and at least once a day automatically (col. 6,lines 27-38,col. 14,lines 6-67,col. 15,lines 1-10,col. 24,lines 40-49).

For claim 24, Brewster et al. teach wherein a control device is provided for controlling said feeding device to feed said animals repeatedly and at each instant depending on the last one of said repeatedly performed measurements automatically (col. 6,lines 27-38,col. 14,lines 6-67,col. 15,lines 1-10,col. 24,lines 40-49).

6. Claims 4,12,14-16,19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewster et al. as applied to claim 1 above, and further in view of Birk (7308866).

For claim 4, Brewster et al. are silent about wherein said solid feed is ensiled feed.

Birk teaches a feeding system for feeding animals on a farm in which the feed is ensiled feed (col. 4,line 59). It would have been obvious to one having ordinary skill in

the art at the time the invention was made to feed the animal in the system of Brewster et al. ensiled feed as taught by Birk, depending on the type of feed needed by the animal upon analyzing the animal's condition/health.

For claim 12, Brewster et al. teach wherein a control device is provided for controlling said feeding device to feed said animals with solid feed. However, Brewster et al. are silent about the solid feed comprising ensilage and concentrate and/or additives depending on the performed measurements.

Birk teaches a feeding system for feeding animals on a farm in which the feed is ensiled feed and concentrate and/or additives (col. 4,lines 59). It would have been obvious to one having ordinary skill in the art at the time the invention was made to feed the animal in the system of Brewster et al. ensiled feed and concentrate and/or additives as taught by Birk, depending on the type of feed needed by the animal upon analyzing the animal's condition/health.

For claim 14, Brewster et al. teach the animals being grouped (col. 12,lines 9-50) but Brewster et al. are silent about provided that the animals are milking animals, depending on milk production, days in lactation, or number of lactations.

Birk teaches a feeding system for feeding animals on a farm in which the animals are milking animals and they are grouped (col. 3,lines 2-26,col. 4,.lines 6-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the system of Brewster et al. for milking animals as taught by Birk, depending on the user's preference to raise and feed milking animals or not.

For claim 15, Brewster et al. teach wherein said animals have supply of partial

mixed rations (PMR) of solid feed and a control device is provided for controlling said feed device to feed each of said animals with additional concentrate feed individually and depending on the performed measurements (col. 12,lines 43-50) but are silent about the supply of partial mixed rations (PMR) of solid feed, including ensilage and concentrate.

Birk teaches a feeding system for feeding animals on a farm wherein said animals have supply of partial mixed rations (PMR) of solid feed, including ensilage and concentrate (col. 4,lines 45-63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to feed the animal in the system of Brewster et al. ensilage and concentrate as taught by Birk, depending on the type of feed needed by the animal upon analyzing the animal's condition/health.

For claim 16, Brewster et al. teach wherein said animals are grouped in different groups, and wherein a control device is provided for controlling said feed device to (i) feed different groups of animals with feed depending on the performed measurements, and (ii) feed said animals with concentrate or additives individually and depending on the performed measurements (see above excerpts). However, Brewster et al. are silent about the feed being ensilage.

Birk teaches a feeding system for feeding animals on a farm wherein said animals have supply of ensilage (col. 4,lines 45-63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to feed the animal in the system of Brewster et al. ensilage as taught by Birk, depending on the type of feed needed by the animal upon analyzing the animal's condition/health.

For claim 19, Brewster et al. are silent about wherein said feeding device is a feed wagon, preferably an in-door feed wagon mounted on a raft in a ceiling, for automatic feeding.

Birk teaches a feeding system for feeding animals on a farm wherein said feeding device is a feed wagon 38, preferably an in-door feed wagon mounted on a raft in a ceiling, for automatic feeding. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a feed wagon as taught by Birk in the system of Brewster et al. in order to automatically dropping feed into a feeding table, manger, etc. without having to use a vehicle.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brewster et al. as applied to claim 1 above, and further in view of Ulman et al. (6234111).

Brewster et al. are silent about wherein a control device is provided for controlling said device to perform said feeding depending on an average value of said repeatedly measured amounts of said constituent.

Ulman et al. teach a feeding system for feeding animals wherein a control device is provided for controlling said device to perform said feeding depending on an average value of said repeatedly measured amounts of said constituent (col. 3,lines 1-10). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a control device is provided for controlling said device to perform said feeding depending on an average value of said repeatedly measured amounts of said constituent as taught by Ulman et al. in the system of Brewster et al. in order to

determine the quantity of feed consumed for accounting purposes and to provide an alternative way of calculating feed ration consumed by the animals.

8. Claims 8,9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewster et al. as applied to claim 1 above, and further in view of Beck (2005/0000457).

Brewster et al. are silent about wherein said analyzer device is a spectroscopic device/near infrared (NIR) instrument for quantitative chemical analysis.

Beck teaches a feeding system for feeding animals wherein said analyzer device is a spectroscopic device/near infrared (NIR) instrument for quantitative chemical analysis ([0008][0039][0043]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a spectroscopic device as taught by Beck in the system of Brewster et al. in order to provide a nondestructive, rapid, accurate and precise determination of the chemical composition of forages and feedstuffs for the animals.

9. Claims 17,21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewster et al. as applied to claim 1 above, and further in view of Palmer (4517923).

For claim 17, Brewster et al. are silent about wherein a control device is provided for controlling said feed device to feed different individuals of said animals with solid feed individually depending on the performed measurements.

Palmer teaches a feeding system for feeding animals wherein a control device is

provided for controlling said feed device to feed different individuals of said animals with solid feed individually depending on the performed measurements (col.2,lines 65-68,col. 3,lines 23-27,col. 4,lines 1-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a control device is provided for controlling said feed device to feed different individuals of said animals with solid feed individually depending on the performed measurements as taught by Palmer in the system of Brewster et al. so as to provide each animal with its own feed ration needs.

For claim 21, Brewster et al. are silent about wherein said animals are milking animals, and wherein said arrangement further comprising a device provided for measuring a quality or a quantity of milk from said milking animals, and a control device is provided for controlling said feeding device to feed said milking animals depending on the measured quality or quantity of milk from said milking animals.

Palmer teaches a feeding system for feeding animals wherein said animals are milking animals, and wherein said arrangement further comprising a device provided for measuring a quality or a quantity of milk from said milking animals, and a control device is provided for controlling said feeding device to feed said milking animals depending on the measured quality or quantity of milk from said milking animals (col.2,lines 65-68,col. 3,lines 23-27,col. 4,lines 1-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a device provided for measuring a quality or a quantity of milk from said milking animals, and a control device is provided for controlling said feeding device to feed said milking animals depending on the measured quality or quantity of milk from said milking animals as taught by Palmer in

the system of Brewster et al. in order to provide appropriate feed ration in relation to the animal's milk production, if the animal of choice is that of a milking animal, so as to provide proper nutrition for the animal.

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brewster et al. as applied to claim 1 above, and further in view of Legrain (5355833).

Brewster et al. are silent about a device provided for measuring a quality of manure from said animals, wherein a control device is provided for controlling said feeding device to feed said animals depending on the measured quality of manure from said animals.

Legrain teaches a feeding system for feeding animals comprising a device provided for measuring a quality of manure from said animals, wherein a control device 4 is provided for controlling said feeding device to feed said animals depending on the measured quality of manure from said animals (col. 5,lines 32-40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a device provided for measuring a quality of manure from said animals, wherein a control device is provided for controlling said feeding device to feed said animals depending on the measured quality of manure from said animals as taught by Legrain in the system of Brewster et al. in order to monitor the animal's feed assimilation capacity and the recordation of what has been wasted so as to modify the feed composition of the animal at its next feeding (col. 5,lines 34-38 of Legrain).

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son T. Nguyen/
Primary Examiner, Art Unit 3643